

**REMARKS**

In the present Office Action, claims 1, 3-15, and 17-28 were examined. Claims 1, 3-15, and 17-28 are rejected. No claims are objected to or allowed.

By this Amendment, claims 1 and 15 have been amended and claims 6, 10, 20, 21, 24 and 25 have been canceled. No new claims have been added. Accordingly, claims 1, 3-5, 7-9, 11-15, 17-19, 22-23 and 26-28 are presented for further examination. No new matter has been added. By this Amendment, claims 1, 3-5, 7-9, 11-15, 17-19, 22-23 and 26-28 are believed to be in condition for allowance.

Applicant's invention, as embodied in amended claim 1, is drawn to a traffic noise barrier wall. Two vertically mounted posts each include a post slot to receive a sheet of soundproofing material. Frequently, the soundproofing material is retrofit, for example, wooden or concrete soundproofing material may be replaced with significantly thinner acrylic sheet. To avoid a necessity of changing the vertically mounted posts with posts having a reduced slot width, Applicants include a frame fastened to at least some edges of the soundproofing material. This frame includes a base portion extending along a peripheral side of the soundproofing sheet and first and second flanges projecting outward from the base portion on opposite sides of the sheet with the base portion, the first flange and the second flange being formed from a single material. The combination of the sheet thickness and the area occupied by the projecting flanges defines a thickness that is greater than the thickness of the soundproofing sheet but less than the width of the slots of the vertically mounted posts. As the thickness of the combination of soundproofing material and outwardly projecting flanges is close to the width of the slots, the framed soundproofing material may be inserted into the slots and then retained in a substantially vertical position.

There is nothing in the prior art of record in the present application to teach or suggest such a combination of a soundproofing sheet and peripheral frame. Applicant's claims, as amended, should be allowed over the combination of cited references.

Applicants incorporated Claim 6 into Claim 1 and Claim 20 into Claim 15. Claims 6 and 20 were rejected under 35 U.S.C. 103(a) as unpatentable over *Donnelly* (U.S. Patent Publication No. US 2003/0019170 A1) in view of *Rerup et al.* (U.S. Patent No. 5,406,039) and *Schondelmayer et al.* (U.S. Patent No. 6,314,687).

The *Donnelly* patent publication discloses a soundproofing barrier wall system having partition members that are supported by opposing slots in two vertically mounted posts. The slots and the partition member have thicknesses selected to enable the partition members to slide down within the slots and be supported in a substantially vertical position. It is noted on Page 3 of the 02/22/2007 Office Action that *Donnelly, et al.* fail to teach a frame disposed along at least a perimeter of the sheet wherein side portions of the frame include a base portion disposed outside one of the side edges of the sheet and first and second flange portions extending outward from the base portions on opposite sides of the sheet.

*Schondelmayer, et al.* disclose wall panels having a core portion and exterior fabric portions. At Figure 2, a core 50 is encased in a frame formed from an end of a hanger bracket 298 in combination with wall member 120 and thin decorative sheet 130. The hanger bracket is a structural element as disclosed in *Schondelmayer et al* at column 8, line 34, "The slots 86 in the hanger bracket are adapted to receive and support various components attached to the wall panel." The side members are disclosed as sheetlike wall members 120 and a pair of thin decorative sheets 130 (*Schondelmayer et al.* at column 7, lines 33-34).

*Rerup et al.* disclose at Figure 4 an acoustical barrier panel 30 with a bracing member 70 bolted to one side of the panel. The bracing member extends along a side of the panel to a point adjacent a side edge and then extends outwardly away from the panel as a flange. The combination of panel and bracing member is fit within a slot formed by an H-beam 52. While only one bracing member is shown and therefore only a single flange, at Page 4 of the 02/22/2007 Office Action, the Examiner asserts that addition of a second flange on the opposite side of the sheet is mere duplication and only involves routine skill in the art. While Applicants do no agree with that characterization, Applicants note that even if a second bracing member is present, the combination of bracing members lacks a base portion disposed along one of the side

members such that the frame captures a portion of the side edges of the panel as claimed by the Applicants.

Applicants' Claim 1, as amended, recites that the frame has a base portion disposed along a side edge and first and second outwardly projecting flanges "to capture at least a portion of the side edges of the sheet" (Applicants' Claim 1). Having the base portion along the side edge disposes the base portion between the side edge and the slot. Such a structure would prevent a reinforcing grid 80 of a barrier panel from being securely anchored to a frame member 50, as disclosed in *Rerup et al.* at column 9, lines 35-40. A reference may not be modified in a way that destroys the function of that reference. Modifying *Rerup et al.* to include a base portion along a side edge prevents the reinforcing grid from being securely anchored to an upright frame portion. Accordingly, a modification of this reference to suggest, either alone or in combination, Applicants' invention as embodied in claims 1 and 15 destroys the function of the reference and is not proper.

Applicants' Claims 1 and 15 as amended recite that the base, first flange and second flange are "formed from a single piece of material". *Schondelmayer et al.* discloses a structural material base portion and fabric covered sheetlike wall members. There is nothing in this reference, either alone or in combination with the other references of record, to suggest a frame that both captures a side edge of a sheet and is formed from a single piece of material.

The presence of a frame with a base member along a side edge of the panel destroys the function of *Rerup et al.* A frame having a base member formed from the same material as the flanges is not suggested by *Schondelmayer et al.* Accordingly, there is nothing in the combination of references to teach or suggest a base member of a frame as claimed by the Applicants that is both disposed along a side edge of a sheet and formed from the same piece of material as flanges that project outwardly from the base. Applicants' claims should be allowed over the combination of references.

The remaining claims pending in this patent application depend from and further limit and define either Claim 1 or Claim 15. As the independent claims are now believed to be in condition for allowance, the dependent claims should likewise be allowed.

Supplemental Information Disclosure Statement

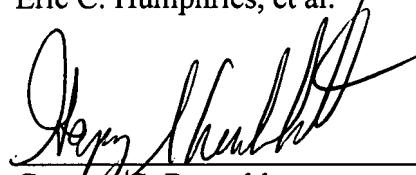
A Supplemental Information Disclosure statement accompanies this amendment.

Accordingly, Applicants submit that none of the references, alone or in combination, anticipate or make obvious the invention as presently claimed and that the application is now in condition for allowance. The amendments to Claims 1 and 15 incorporate previously examined Claims 6 and 20 and do not require additional searching on the part of the Examiner. Antecedent basis for the base portion of the frame being along the side edge is found in the preceding line of the claims where the frame is disposed “along” a perimeter of the sheet. Further, this amendment places the claims in condition for allowance, or in the alternative, in better conditions for appeal and is proper under the provisions of 37 CFR 1.116. Therefore, Applicants respectfully request entry of this amendment, reconsideration and further examination of the application and the Examiner is respectfully requested to take such proper actions so that a patent will issue herefrom as soon as possible.

If the Examiner has any questions or believes that a discussion with Applicants' attorney would expedite prosecution, the Examiner is invited and encouraged to contact the undersigned at the telephone number below.

Please apply any credits or charge any deficiencies to our Deposit Account No. 23-1665.

Respectfully submitted,  
Eric C. Humphries, et al.



\_\_\_\_\_  
Gregory S. Rosenblatt  
Reg. No. 32,489

Date: June 14, 2007

**CONTACT INFORMATION:**

WIGGIN & DANA LLP  
One Century Tower  
New Haven, CT 06508-1832  
Telephone: (203) 498-4566  
Facsimile: (203) 782-2889  
Email: grosenblatt@wiggin.com

\17725\5\651044.1